

## **AMENDMENTS TO THE DRAWINGS**

Please amend Figures 1 and 2 to include the label “Prior Art” as requested by the Examiner. The drawing amendments are described in the application as originally filed. No new matter has been added.

## **REMARKS / ARGUMENTS**

### **Status of Claims**

Claims 1-20 are pending in the application. Claims 1-4, 6, 8-13, 16 and 19 stand rejected. Claims 5, 7, 14, 15, 17, 18 and 20 are objected to as being dependent upon a rejected claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant appreciates the Examiner's comments regarding the allowability of the noted claims. Applicant has canceled Claims 7 and 15, and has amended Claims 1, 2, 5, 8, 9, 11, 13, 14, 16, 19 and 20, leaving Claims 1-6, 8-14 and 16-20 for consideration upon entry of the present Amendment.

Applicant respectfully submits that the rejections under 35 U.S.C. §102(b) and 35 U.S.C. §103(a) have been traversed, that no new matter has been entered, and that the application is in condition for allowance.

### **Objections to the Drawings**

Figures 1 and 2 are objected to for having not been labeled as "Prior Art".

Applicant has amended Figures 1 and 2 as set forth above to include the label "Prior Art".

Accordingly, Applicant respectfully requests reconsideration and withdrawal of this objection, which Applicant considers to be obviated.

### **Objections to the Brief Description of the Drawings**

The Brief Description of the Drawings are objected to for not indicating that Figure 1 is prior art.

Applicant has amended Paragraph [0012] as set forth above to include the prior art reference.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of this objection, which Applicant considers to be obviated.

**Objections to the Abstract**

The Abstract is objected to for reasons relating to word count.

Applicant has amended the Abstract as set forth above for compliance with the 150 word count.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of this objection, which Applicant considers to be obviated.

**Objections to the Claims, Examiner's Paragraph 3**

Claims 1, 9, 16 and 19 are objected to under 37 C.F.R. 1.75(i) for failing to provide a line indentation for each element or step.

Applicant herewith provides in the listing of claims the line indentations requested by the Examiner.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of this objection, which Applicant considers to be obviated.

**Objections to the Claims, Examiner's Paragraph 4**

Claims 1-20 are objected to under 37 C.F.R. 1.75(a) for reasons relating to confusion that could be drawn from the limitations set forth. While the Examiner understands the intentions of Applicant, the Examiner nonetheless requests corrective action.

Applicant thanks the Examiner for the thorough reading of the claims, and in accordance with the Examiner's request has amended the claims to more particularly point out and distinctly claim the subject matter regarded as the invention.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of these objections, which Applicant considers to be obviated.

### **Rejections Under 35 U.S.C. §102(b)**

Claims 1-4, 6, 8, 16 and 19 stand rejected under 35 U.S.C. §102(b) as being anticipated by Russell et al. (U.S. Patent No. 5,578,931, hereinafter Russell).

Applicant traverses this rejection for the following reasons.

Applicant respectfully submits that “[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, *in a single prior art reference.*” *Verdegaal Bros. V. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987) (emphasis added). Moreover, “[t]he identical invention must be shown in as complete detail as is contained in the \*\*\* claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Furthermore, the single source must disclose all of the claimed elements “arranged as in the claim.” *Structural Rubber Prods. Co. v. Park Rubber Co.*, 749 F.2d 707, 716, 223 U.S.P.Q. 1264, 1271 (Fed. Cir. 1984). Missing elements may not be supplied by the knowledge of one skilled in the art or the disclosure of another reference. *Titanium Metals Corp. v. Banner*, 778 F.2d 775, 780, 227 U.S.P.Q. 773, 777 (Fed. Cir. 1985).

#### **Regarding Claim 1**

The Examiner comments that Claim 7, which depends from Claim 1, would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims and subject to the appropriate correction of the noted 37 C.F.R. 1.75(a) objections.

Applicant has canceled Claim 7, and has amended Claim 1 to now include the limitations of Claim 7.

#### **Regarding Claim 16**

The Examiner comments that Claim 18, which depends indirectly from Claim 16, would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims and subject to the appropriate correction of the noted 37 C.F.R. 1.75(a) objections.

Applicant has incorporated language from Claim 18 into Claim 16, which now recites, inter alia, “harmonic content”.

In view of the allowability of Claim 18, which remains to differ in scope, Applicant submits that Russell fails to disclose the limitation of “harmonic content” arranged as claimed.

Regarding Claim 19

The Examiner comments that Claim 20, which depends from Claim 19, would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims and subject to the appropriate correction of the noted 37 C.F.R. 1.75(a) objections.

Applicant has incorporated language from Claim 20 into Claim 19, which now recites, inter alia, “harmonic content”.

In view of the allowability of Claim 20, which remains to differ in scope, Applicant submits that Russell fails to disclose the limitation of “harmonic content” arranged as claimed.

No new matter has been added by these amendments as antecedent support may be found in the specification as originally filed, such as in the noted claims for example.

Dependent claims inherit all of the limitations of the respective parent claim.

In view of the amendment and foregoing remarks, Applicant submits that Russell does not disclose each and every element of the claimed invention arranged as claimed and therefore cannot be anticipatory. Accordingly, Applicant respectfully submits that the Examiner’s rejection under 35 U.S.C. §102(b) has been traversed, and requests that the Examiner reconsider and withdraw all of these rejections.

Rejections Under 35 U.S.C. §103(a)

Claims 9-13 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Russell in view of the Applicant's Admissions of prior art.

Applicant traverses these rejections for the following reasons.

Applicant respectfully submits that the obviousness rejection based on the References is improper as the References fail to teach or suggest each and every element of the instant invention. For an obviousness rejection to be proper, the Examiner must meet the burden of establishing a prima facie case of obviousness. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988). The Examiner must meet the burden of establishing that all elements of the invention are taught or suggested in the prior art. MPEP §2143.03.

The Examiner comments that Claim 15, which depends from Claim 9, would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims and subject to the appropriate correction of the noted 37 C.F.R. 1.75(a) objections.

Applicant has canceled Claim 15, and has amended Claim 9 to now include the limitations of Claim 15.

No new matter has been added by these amendments as antecedent support may be found in the specification as originally filed, such as in the noted claims for example.

Dependent claims inherit all of the limitations of the respective parent claim and any intervening claim.

In view of the foregoing, Applicant submits that the References fail to teach or suggest each and every element of the claimed invention and are therefore wholly inadequate in their teaching of the claimed invention as a whole, fail to motivate one skilled in the art to do what the patent Applicant has done, fail to offer any reasonable expectation of success in combining the References to perform as the claimed invention performs, and discloses a substantially different invention from the claimed invention, and therefore cannot properly be used to establish a prima facie case of obviousness. Accordingly, Applicant respectfully requests reconsideration and withdrawal of all rejections under 35 U.S.C. §103(a), which Applicant considers to be traversed.

In light of the forgoing, Applicant respectfully submits that the Examiner's rejections under 35 U.S.C. §102(b) and 35 U.S.C. §103(a) have been traversed, and respectfully requests that the Examiner reconsider and withdraw these rejections.

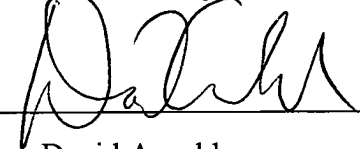
The Commissioner is hereby authorized to charge any additional fees that may be required for this amendment, or credit any overpayment, to Deposit Account No. 06-1130.

In the event that an extension of time is required, or may be required in addition to that requested in a petition for extension of time, the Commissioner is requested to grant a petition for that extension of time that is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to the above-identified Deposit Account.

Respectfully submitted,

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